

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	XXX	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
8. FOIA Officer		
9. Constituent Inquiries Officer		
10. DD/OCA		X
11.		
12.		

SUSPENSE

24 JUL 89 C.O.B.

Date

Action Officer:

Remarks:

no objection
Call OAS & tell them.

GAH 24 JUL 89

Name/Date

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 21, 1989

URGENT

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

OCA 2403-89

National Security Council (Lampley x3055)	
Department of State (Bachrach 647-4463)	225
Department of Defense (Brick 697-1305)	325
Department of Justice (Perkins 633-2113)	217
Department of Energy (Rabben 586-6718)	209
Central Intelligence Agency	258
Department of Commerce (Levitt 377-3151)	324

SUBJECT: ACDA draft testimony regarding the foreign policy implications of biological weapons proliferation. A hearing is scheduled for July 26th before the Senate Judiciary Committee.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than C.O.B., MONDAY, JULY 24, 1989.

Questions should be referred to SUE THAU/ANNETTE ROONEY (395-7300), the legislative analyst in this office or to JEFF ASHFORD (395-3920).

Susan R. Peterson

RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosure

cc: C. Boyden Gray T. Thiele
D. Taft S. Dotson

URGENT

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**STATEMENT BEFORE THE
SENATE JUDICIARY COMMITTEE
ON S. 993,
THE BIOLOGICAL WEAPONS ANTI-TERRORISM
ACT OF 1989
BY
THOMAS GRAHAM, JR.,
GENERAL COUNSEL
U.S. ARMS CONTROL AND DISARMAMENT AGENCY
JULY 26, 1989**

- 2 -

"... even if this legislation were not required by the 1972 convention, we would still be wise to enact the bill to help combat terrorism. Surprisingly, there is no uniform statute that criminalizes the development of biological devices or organisms that are meant to kill others. We cannot rely on existing statutes that may arguably regulate one or another aspect of the problem -- for instance, the Toxic Substances Control Act. The prospects of biological terrorism are too ghastly to permit a loophole in our law."

Moreover, Deputy Assistant Secretary of Defense for Negotiations Policy, Jim Minds, said in testimony prepared for the Senate Governmental Affairs Committee on May 17, 1989:

"... as late as the 1986 BWC Review Conference, the Executive Branch judgment was that no implementing legislation was required. That judgment primarily was based on the perception that potential violators were most likely to be States rather than commercial firms or private individuals. However, even in the last few years, two developments have occurred to lead us to conclude that implementing legislation probably is desirable. These are

- 3 -

the explosion of biotechnology, in both basic research and applied technology, and the apparent interest in obtaining BW capabilities demonstrated by several nations."

We thus have a convergence and mutuality of interests on this type of legislation. The draft legislation before this Committee and its House counterpart, H.R. 237, are, in large part, patterned after BWC legislation first proposed by the Executive Branch in 1973, after the BWC was signed but before the Senate consented to its ratification.

Some related legislation, such as the Toxic Substances Control Act, has been enacted. However, so much as changed since 1973, we need a cooperative effort to best satisfy all our concerns: the biotechnology explosion, deterring harmful biological traffic and terrorism, applying domestic criminal sanctions, and doing all we can to curtail the international proliferation of biological weapon capabilities. The last is ACDA's principal concern, but we stand ready to work with you and other agencies to build upon S. 993 in a way best suited to multiple needs in a world of rapid biological technology evolution.